

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Drawing Amendment.

The drawings have been amended by removing sheets 4-17 containing FIGs. 10 - 47 which represent unelected inventions.

2. Specification Amendment.

The specification has been amended to remove descriptions of unelected inventions and to correct typographical errors, the Applicant apologizes for any inconvenience that may have resulted.

3. Rejection of Claims 1-4, 13, 14 and 51-53 under 35 U.S.C. §112.

Claims 1, 2, 13, 14 and 52 were rejected under 35 U.S.C. §112 as being indefinite.

The above claims were considered indefinite on the basis of the word “predetermined” such as in Claim 1, “*a combustible material agglomerated into a predetermined shape as a combustible firelog*”. Similar phraseology is found in claims 13 and 14. In Claim 2, however, the phrase “predetermined” was used indicating a limit on combustion in response to shield use.

Applicant generally disagrees with the holding of indefiniteness, in particular with regard to claims 1, 13, 14 and 51. The phrase “predetermined” in these instances is both qualified and clearly understandable from the context, and furthermore that understanding is bolstered by readings within the specification.

However, for the sake of harmony, Applicant has amended claims 1-4, 13, 14 and 51-53 as follows toward remediating any possible confusion.

The relevant portion of the claims was amended as follows:

Claim 1: This is an independent claim which has been amended to recite "...a combustible material agglomerated into a ~~predetermined~~ shape having top and bottom surface configured for supporting the firelog during combustion and dimensioned for use as a combustible firelog;". The term "predetermined", although not considered to be indefinite by the Applicant in this context, has been amended to recite the aspects of the shape with greater particularity.

Claim 2: This dependent claim was amended to recite "...wherein said combustion shield is adapted with perforations on at least portions of its surface ~~to allow for a predetermined amount of combustion~~"

Claim 3: This dependent claim which recited "the consumer" was amended to recite "a consumer", although "the consumer" is not indefinite because there is a target consumer for each manufactured product, in the same way that every circle has a perimeter, and other examples which are described in the MPEP. Therefore, "the consumer" is actually the more correct use, because "consumer" is not an element being introduced within the claim, wherein it is more confusing to introduce "consumer" with the indefinite article "a".

Claim 4: This is a dependent claim which has been amended to remove the phrase "or equivalent", although this is readily understood not to undermine the applicability of the doctrine of equivalents. Since a number of alternatives are listed in the specification as grasping mechanisms, the applicant adopted the means-plus-

function form for this claim element, which has been amended as follows:

~~“wherein a pull cord, or equivalent, is~~ further comprising means for grasping
attached to said combustion shield to facilitate full or partial removal of said shield.”

Claim 13: This independent claim was cancelled.

Claim 14: This is an independent claim in Jepson format which has been amended “In a manufactured firelog having a combustible material that has been formed into a ~~predetermined~~ shape dimensioned for use as a combustible firelog and surrounded by a flammable wrapper...” to remove the phrase “predetermined shape”.

Claim 51: This is an independent claim which has been amended to “In a manufactured firelog formed from an agglomeration of combustible material in a ~~predetermined~~ shape dimensioned for use as a combustible firelog product, wherein the improvement comprises:”, to remove the term “predetermined”.

Claim 52: This is a dependent claim which has been amended to replace the term “thin” with “flexible” with provides added clarity.

Claim 53: This dependent claim was reworded to more clearly indicate that the full or partial removal of the combustion shield allows varying the combustion rate of the firelog.

Therefore, all issues with regard to indefiniteness under 35 U.S.C. §112 have been addressed, with the claims being in clear and proper form.

4. General Observations on rejections under 35 U.S.C. §102 & §103.

A number of the claims within the application have been rejected based on alleged anticipation, or obviousness based on various patent references.

Prior to traversing these “grounds”, the Applicant wishes to respectfully enter a few general comments regarding these rejections.

In the case of each claim, the rejection is based on considering only a portion of the claim limitations, or misconstrual of what the application or prior art teaches. It is well established that supporting a rejection requires full consideration of all claim limitations prior to attempting to support rejection. This is always important, but is especially crucial in a crowded art such as that of manufactured firelog products, wherein the inventions generally contain very few elements. In this crowded art, even small differences can provide patentable distinction, such as between the Comas and Altman patents referenced in the rejection which are both directed at fire starting devices, having only slight differences therebetween.

In many cases the present office action attempts to dissect aspect of Applicant's invention and equate these, often based on a supposed goal or intent, with element in the art. However, important aspects of the invention have been wholly ignored by this form of examination, which is contrary to proper Examination practice espoused by the MPEP.

MPEP 2142.02: DISTILLING THE INVENTION DOWN TO A “GIST” OR “THRUST” OF AN INVENTION DISREGARDS “AS A WHOLE” REQUIREMENT
Distilling an invention down to the “gist” or “thrust” of an invention disregards the requirement of analyzing the subject matter “as a whole”. *Jones v. Hardy*, 727 F.2d 1524 220 USPQ 1021, 1026 (Fed. Cir. 1984) (“treating the advantage as the invention disregards statutory requirement that the invention be viewed ‘as a whole’”).

In addition, the rejection fail in a number of regards (any of which are fatal), such as the following. The firelog claimed by the applicant operates under a new principle and solves a different problem, the invention uses fire retardant material toward new and

unobvious results. While the low level of skill in the art avers to a low threshold for invention.

If the cited references were to be utilized in positing an obviousness rejection against the independent claims a number of shortcomings would arise, including lack of specificity of suggestion to modify, non-equivalence of elements in references, unworkable combination, useless combination, proposed combination rendering reference unsuited for intended purpose, no need of element within references, while the references themselves and not applicants teachings would need to provides a suggestion, motivation, or incentive for making any proposed modifications or combinations to comport with the claimed invention.

It should also be recognized that in a crowded art, such as this, that it is even more critical to recognize the structural differences and consider the application as a whole. In addition, since the elements of Applicant's invention have long been available, but nothing has been invented which comports with the claimed aspects of the invention, this also speaks to the unobviousness of the invention.

5. Rejection of Claim 14 under 35 U.S.C. §102(b).

Claim 14 was rejected as being anticipated by Chandaria (U.S. Pat. No. 5,958,090).

The entire support provided for the rejection is as follows:

"Chandaria teaches a firelog that may be severed or snapped apart and burned as separate parts (see abstract; Figs 2, 3 and 4; claims 6-12). Accordingly, Chandaria teaching all the limitations of the claim, anticipates the claim."

Claim Elements Not Taught By Reference

All the elements of Applicant's claim have not been considered as is required. Applicant's claim does not describe "severing or snapping apart" a firelog. Applicant's invention has been distilled down to a "jist", without consideration of all of the specific claim elements. It is immaterial if an embodiment is directed toward a similar idea or inventive concept.

Chandaria '090 describes a one piece firelog having grooves which facilitate dividing the unwrapped log prior to burning. This is substantially different than that which is recited by Applicant's Claim 14.

Claim 14 of the application recites "nested" relationship between "complementary shapes" during burning. These aspects are not present in the reference.

Claim 14 also recites that the sections of firelog are "surrounded by a flammable wrapper".

Applicant's claimed invention is structurally different as shown above and provides a number of significant advantages including containing each portion in a wrapper to prevent firelog fragment mess and to facilitate igniting the firelog within its wrapper. While the nested shape provides four different heat outputs (i.e. burning combination in nested mode, burning both in non-nested mode, burning the small portion, burning the large portion). Furthermore, the nested combination can remain in a stable nested configuration that maintains the desired heat output and is less subject to breaking apart.

It is well established that to support an anticipation rejection, every claim element must be taught or inherent in a single prior art reference, Manual of Patent Examining

Procedure (MPEP) §706.02a. Claim 14 contains elements which do not comport with the relied-upon reference and is not anticipated therefore by the relied-upon reference.

For a reference to anticipate in terms of §102, every element of the claimed invention must be identically shown in a single reference. Diversitech Corp. v. Century Steps, Inc. 850 F.2d 675, 677, 7 USPQ2d 1315, 1317 (Fed.Cir. 1988). These elements must be arranged as in the claim under review, Linderman Maschinenfabrik v. American Hoist & Derrick Co. 730 F.2d 1452, 1458, 221 USPQ 481,485 (Fed.Cir. 1984).

Therefore, Claim 14 is not anticipated by the reference, and the rejection should be withdrawn.

5. Rejection of Claims 1, 5, 6, 9, 11, 14 and 51 under 35 U.S.C. §102(b).

Claim 1, 5, 6, 9, 11, 14 and 51 was rejected as being anticipated by the kindling device of Altman (U.S. Pat. No. 4,272,252).

Claims 1, 5, 14 and 51. These are the independent claims within this group of claims.

After carefully considering the grounds for the rejection and the cited reference, the Applicant responds as follows. Altman '252 describes a piece of kindling, and not a manufactured firelog. The device of Altman does not anticipate any of Claims 1, 5, 14 or 51. It is well settled that for anticipation under 35 USC 102, the anticipating reference must show all the elements of the claim.

The following will detail these shortcomings for each of these independent claims.

Claim Elements Not Taught By Reference

Claim 1. It should be readily apparent that the device of Altman '252, is not a "manufactured firelog" as required by the preamble of Applicant's Claim 1, which

breathes life into the claim.

MPEP 2111.02 covers the interpretation of the preamble, wherein it can be construed as a limitation if it “breathes life into the claim”.

In *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, it was held that the preamble may be more than a mere statement of intended field of use, and may be so intimately meshed with the remaining claim language that the preamble and the remainder of the claim may be construed as one unified internally consistent recitation of the invention. See *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 51 USPQ 2d (BNA) 1161 (Fed. Cir. 1999).

Furthermore, the limitation “*combustible material agglomerated into a shape dimensioned for use as a combustible firelog*” does in no way comport with teachings in the relied-upon reference. The relied-upon reference of Altman ‘252, embodies cut-up sections of insulating board (see col. 3, lines 58-63) “*One would first take a piece of the board from which the blocks 11 are made... This board is then cut into individual blocks 11.*” Another embodiment utilizes a bag of wood chips held within the bag. In both cases the resultant structure is doused with a liquid combustible agent, such as mineral spirits, and retained in the bag.

In addition, the combination of combustion shield and combustible firelog of Applicant is configured for being burned with the shield on an upper surface or a lower surface depending on the desired burn rate. This is not the case with the Altman reference, wherein attempting to burn it in an inverted position would release the mineral spirits which could be dangerous.

There does not even exist a motivation within the Altman ‘252 reference for creating the combustion shield taught by the Applicant; because altman utilizes the fire

retardent portion of the leak-proof sack which holds flat block of material for preventing release of combustible liquid.

The elements of Applicant's Claim 1 clearly can not be equated to the kindling device described by Altman, nor do obviousness considerations provide support for the rejection.

Claim 5, 14 and 51. These are also independent claims within the application, and contain elements which are not taught by the Altman '252 reference. All these claims are drawn to a manufactured firelog product, which are structurally different from the kindling recited by Altman '252.

Claim 5 describes a manufactured firelog comprising agglomerated material and which is provided with a means for selectively shielding an exterior surface portion of said firelog from combustion. Furthermore, the amended claim goes on to describe the nature of the selective shielding being "responsive to the user selection of the surface area of said shielding which is retained under said firelog".

The teachings of Altman are not drawn to a manufactured firelog, and Altman does not describe any means by which the user adjusts the amount of combustion shielding for controlling the rate of combustion. Consequently, Altman does not anticipate these two aspects of Applicant's claimed invention. Furthermore, as Altman does not teach these elements or suggest or provide motivation or incentive for selective combustion rate it would not support an obviousness rejection.

Therefore, the rejection of amended Claim 5, and the claims which depend therefrom should be withdrawn.

Claim 14 was included in this group of rejected claims, although this appears to

have been by mistake, because Claim 14 discloses the “nested configuration” which was already described with regard to a rejection based on the Chandaria ‘090 reference. Aside from not describing a firelog structure, the Altman ‘252 reference does not teach separating itself into pieces, let alone the nesting as claimed by the Applicant.

Claim 51 is an independent claim reciting the elements in a similar manner to independent Claim 1 and Claim 5, wherein it is similarly patentably distinct from the teachings of the Altman reference. Specifically, Claim 51 is drawn to a manufactured firelog dimensioned as a combustible firelog product. The amended claim further describes in detail the combustion shield being configured to allow it to be oriented under the firelog for a first burn rate, or oriented in other positions to provide a second burning rate which is higher than said first burning rate. Consequently, Claim 5 recites two aspects which are not taught by the Altman reference, and the claim is therefore patentable over the reference.

Therefore, elements of independent claims 1, 5, 14 and 51 have been shown to be patentably distinct from the references, and the rejection of these claims and the claims which depend therefrom should be withdrawn.

6. Rejection of Claims 1, 5, 6, 9, 10, 11 and 51 under 35 U.S.C. §102(b).

Claim 1, 5, 6, 9, 10, 11 and 51 were rejected as being anticipated by Kincaid (U.S. Pat. No. 4,243,394).

The firelog of Kincaid ‘394 is configured in a wedge shape with a flat bottom and flat back and a curved face subtending an arc between the front of the flat bottom edge and the top of the flat back side. In order to enhance the aesthetic appeal by

encouraging flame formation on the front of the firelog; one embodiment of Kincaid '394 is described which has burn resistant material in the wrapper surrounding the flat sides of the firelog. This is described in column 2, lines 23-25: *"One major advantage of the present firelog is its aesthetic appeal. Thus, only the curved portions of the log, which is the primary burning surface, is visible to the observer of the log. The bulk of the flame travels along this curved surface for the reasons below so that there is only minimal burning on the backside of the firelog away from the observer."*

It should be recognized immediately, that both the intent and structure of the manufactured log of Kincaid '394 differ from that of Applicant's firelog as recited in the dependent claims. Applicant solved a different problem than that described by Kincaid '394, and did so with an apparatus having a different structure. The claimed device by the Applicant is configured to allow the user to select the burning rate of a given firelog. Embodiments using a combustion shield are described for controlling the burn rate by (1) changing the orientation of the combustion shield, whether underneath the log or not, and (2) by allowing the user to select how much surface area is covered by the combustion shield (i.e. user allowed to remove portions of the shield).

By contrast, the firelog of Kincaid '394 has a burn resistant material along both flat sides - the user cannot adjust the effect of combustion shielding by reorienting the firelog. With regard to Applicant's second embodiment, no means are described by which portions of the fire resistant material can be removed from the flat sides of the wrapper.

Consequently, Applicant's firelog as recited within Claims 1, 5, 6, 9, 10, 11 and 51 is patentably distinct over the firelog of Kincaid '394. The following details these

aspects in relation to each claim within this rejection.

Claim 1. This is an independent claim which describes the user selective control of burning rate. In this claim the top and bottom of the log surface are configured for supporting the firelog during combustion. The combustion shield is described which can be oriented by the user to either the top of the firelog for a conventional duration of burn or to the bottom to reduce the burning rate. These claimed aspects are not described by Kincaid '394, nor is there a suggestion or motivation to be found in Kincaid to foster modifications to that log to a structure which comports to that of the Applicant's.

Therefore, Claim 1 is not anticipated by the reference as it clearly recites elements which are not taught by the cited reference.

Claim 5. This independent claim is a means claim which includes a "means for selectively shielding an exterior surface portion" of the firelog. The claim goes on to describe selectively changing the combustion rate. These limitations are not taught by the cited reference, wherein it cannot anticipate Claim 5.

Claims 6, 9, 10 and 11. These are dependent claims which depend from base claims for which patentability has been demonstrated, therefore these claims should be considered a fortiori allowable in view of those base claims. However, these claims also describe limitations which are not found in the cited reference. An example is found in Claim 6 which depends from independent Claim 5 and recites, among other things, that the shielding means is configured to fall away as the surrounding portions of the wrapper are burned away when the combustion shield is not oriented under the firelog. This limitation of amended claim 6 is not taught by Kincaid '394.

7. Rejection of Claims 13 and 14 under 35 U.S.C. §103(a).

Claims 13 and 14 were rejected under 35 U.S.C. § 103(a), as being unpatentable over Burton (U.S. Pat. No. 4,060,396).

Claim 13 was cancelled.

Claim 14. This is an independent claim which describes a firelog formed in “complementary shapes that may be nested during burning”, the use of the firelogs separately or in nested combination providing different combustion duration. This rejection is similar to that put forth based on the Chandaria ‘090 reference, which like Burton ‘396 is configured without a wrapper to separate into segments. Burton like Chandara describes a one piece firelog having circular grooves which facilitate dividing the unwrapped log prior to burning. This is substantially different than that which is recited by Applicant’s Claim 14, in which the firelog sections are formed in complementary shapes which can be nested during burning. Segmenting the log beneath the wrapper would be of little value in the case of either Burton or Chandera because this would lead to spilling of the stray elements within the wrapper, which is one of the primary reasons for including a wrapper in the first place. Segmenting the log beneath a wrapper does not result in Applicant’s invention as recited in Claim 14, wherein Burton does not anticipate the claim.

With regards to the use of the Jepson format, it correctly describes the use of wrappers on firelogs, but the Examiner incorrectly ascribes a design choice element to this aspect based on the use of wrappers. To help in understanding this claim, it should be appreciated that one embodiment of this aspect of the invention is shown in FIG. 7, FIG. 8 and FIG. 9. From those figures and the specification, it is clear that the

“complementary shapes” described in Applicant’s claim 14 are not referring to the “aesthetic” definition of the word complementary, but to its definition relating to the term “nesting”. The wrapped sections of firelog within the applicant’s invention are shaped to fit together in a stable configuration, wherein they may be burned without risking separation. It should be realized that firelogs falling or separating (non-nested = unstable) while burning is dangerous as the manufactured logs when heated can very easily break apart (wax in firelog has a low melting point) and create a dangerous heat level as well as create the possibility that portions of the firelog can leave the fireplace area to start a structural fire. It is for this reason that manufactured firelogs are burned one at a time and are NEVER to be stacked, as clearly detailed in the instructions for each firelog. Providing a stable nested configuration allows burning logs in combination for a higher heat output. These logs are preferably joined into the nested combination when sold, wherein the user separates them if they want to burn a fire of shorter duration or lower heat output. This should help with understanding what is described in Claim 14.

Consequently the “nested” relationship between “complementary shapes” is not a design choice and during burning. These aspects are not present in the reference. The teachings of Burton even “surrounded by a flammable wrapper” does not result in Applicant’s invention as described above, while it would also not provide one of the primary benefits associated with wrapped firelogs, that of containing the stray elements, sawdust and particles which separate from firelogs leaving messes in the household.

Applicant's claimed invention is structurally different as shown above and provides a number of significant advantages including containing each portion in a

wrapper to prevent firelog fragment mess and to facilitate igniting the firelog within its wrapper. While the nested shape provides four different heat outputs (i.e. burning combination in nested mode, burning both in non-nested mode, burning the small portion, burning the large portion). Furthermore, the nested combination can remain in a stable nested configuration that maintains the desired heat output and is less subject to breaking apart.

Therefore, Claim 14 is not obvious in view of the Burton reference, and the rejection should be withdrawn.

8. Rejection of Claim 13 under 35 U.S.C. §103(a).

Claim 13 was rejected under 35 U.S.C. § 103(a), as being unpatentable over Altman (U.S. Pat. No. 4,272,252).

Claim 13 was cancelled.

9. Rejection of Claims 2-4 and 12 under 35 U.S.C. §103(a).

Claim 2-4 and 12 was rejected as being unpatentable over Kincaid (U.S. Pat. No. 4,243,394).

Claim 2-4 and 12. These are dependent claims within the application.

Although these claims depend from base claims whose patentability has been demonstrated and should therefore be considered *a fortiori* allowable, the teachings within the Kincaid and Comas references have been improperly applied to these references. The aspects of these claims have not been properly considered within the office action.

Claim 2. This is a dependent claim. The rejection of Claim 2 equates an airspace between the wrapper and firelog with perforations in the combustion shield!! The only reasoning being that Kincaid speaks of the burn rate being different with the the wrapper is separated from the firelog. There is very significant structural differences (which are brought out in the claims) between a combustion shield having apertures to allow for limited levels of combustion in an area covered by the combustion shield and a wrapper with slack that happens in some instances to be pulled away from the log. The Applicant respectfully contends that attempting to equate these two is tantamount to an obviousness rejection for a passenger car based on a bicycle in that both provide a means of conveyance and the use of an engine is merely a design choice - they are structural different which is brought out in the claims.

Claim 3. This is a dependent claim which describes the combustion shield being configured for full or partial removal by the consumer, as it is the consumer to which the invention wishes to give the choice of burn rates. The entire reasoning put forth in support of this rejection is as follows: "This would also allow a portion of the shield to be removed." First there is no basis in the references or applicants invention for equating these aspects, while equating their intent is meaningless because the structural aspects of Applicants claims must be addressed, not what the Examiner considers could be an intent. How an airgap in the wrapper could possibly equate to having a combustion shield with removable portions is not stated in the rejection, as of course this is an absurd statement of no value. The limitations in this claim were not properly considered in the rejection.

Claim 4, 12. These claim were also misconstrued, in that a pull cord (48 in FIG. 2) certainly is not part of a conventional wrapper, nor would is there any suggestion, motivation or incentive found in the references. The applicant has amended Claim 4 and Claim 12 to more generally address this aspect of the invention as a "means for grasping", which is supported by the different grasping mechanisms described in the specification. Still, however, there is no structure in the cited reference that equates to a means for removing a portion of a combustion shield to a flap on a wrapper, and the only possible suggestion, motivation or incentive is found in Applicant's own teachings.

Applicant also wishes note that as applicable above, as elsewhere, explicit rationale must be put forth by the Examiner to show inherency. This is described in the MPEP:

EXAMINER MUST PROVIDE RATIONALE OR EVIDENCE TENDING TO SHOW INHERENCY

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted) (The claims were drawn to a disposable diaper having three fastening elements. The reference disclosed two fastening elements that could perform the same function as the three fastening elements in the claims. The court construed the claims to require three separate elements and held that the reference did not disclose a separate third fastening element, either expressly or inherently.).

As has been pointed out, these problems with the rejection are only cumulative to the problems with the non-equivalence of the structural claim limitations.

Applicant wishes to also point out that as stated was stated in a recent case:

"Examiner can not pull in separate references against the dependents that were not

cited against the independent claims". This was the conclusion in *McDaniel*, no. 01-1307.

"Board erred by not considering rejection of dependent claims that were rejected based on references used against independent claims PLUS secondary references not cited against the independent claims, since ipso facto the dependent claims did not share a common ground of rejection with the independent claims and Board is required by 35 U.S.C. §6(b) (2000) and 37 C.F.R. §1.196(a) to review each ground of rejection, *In re McDaniel*, no 01-1307"

Consequently, although the above dependent claims are a fortiori allowable in view of the base claims, their unique limitations have been shown to be patentably distinct from the cited references.

Therefore, the rejection of Claims 2-4 and 12 should be withdrawn.

10. Rejection of Claims 7, 8, 52 and 53 under 35 U.S.C. §103(a).

Claim 7, 8, 52 and 53 was rejected as being unpatentable over Kincaid (U.S. Pat. No. 4,243,394) in view of Comas (U.S. Pat. No. 6,508,849).

Claim 7, 8, 52 and 53. These are dependent claims within the application. Although these claims depend from base claims whose patentability has been demonstrated and should therefore be considered a *fortiori* allowable, the teachings within the Kincaid and Comas references have been improperly applied to these references. The aspects of these claims have not been properly considered within the office action.

For example Claim 53 recites that the combustion shield is configured for full or partial removal, and this is limitation is not taught by the cited references, nor is any support provided for rejecting this claim.

11. Support for additional claims 57 - 62.

Support for these added claims is described below.

Claim 57. Support for the construction of an embodiment of a manufactured firelog is found on page 9, lines 19-21: "Manufactured firelogs are manufactured by agglomerating combustible materials, such as wood chips and wood containing by-products with binding agents and combustion aids, such as wax." This is also found elsewhere such as on page 32, lines 18-20 of the specification and elsewhere.

Claim 58. Support for the this embodiment of combustion shield construction is recited on page 34, lines 12-14 of the specification as well as elsewhere.

Claim 59. Support for the combustion shield being configured to allow the user to select how much of the combustion shield is retained beneath the firelog and selection of the size of the combustion shield are described for embodiments found on page 10, lines 8-15; page 10, lines 20-24; and page 38, lines 1-8 of the specification as well as elsewhere.

Claim 60. Support for the first and second buring rate in response to orienting the combustion shield beneath the firelog is described in Claim 1 and found in the specification, such as at page 10, lines 20-22 as well as elsewhere.

Claim 61. This is a new independent claim based on independent claim 14, which recites with greater particularity the nested aspects of the wrapped sections of logs.

Claim 62. Support for the means for separably adhering the nestable sections of the firelog are described in an embodiment of a manufactured firelog found on page 12, lines 5-8: *"It is preferable that the large and small logs be nested and attached to*

one another with a temporary attachment means, such as a conventional low-tack adhesive, which allows the firelogs to be separated without removing the wrappers”, as well as elsewhere.

12. Additional Claim fees.

No additional claim fees are required as the number of claims added during this amendment were less than the number of claims for which a fee has already been paid.

13. Extension of Time Petition.

The Applicant has enclosed a petition and an appropriate fee for a one-month extension of time to respond to the Office Action and has enclosed the appropriate petition fee.

//

//

//

//

//

//

//

//

//

//

//

//

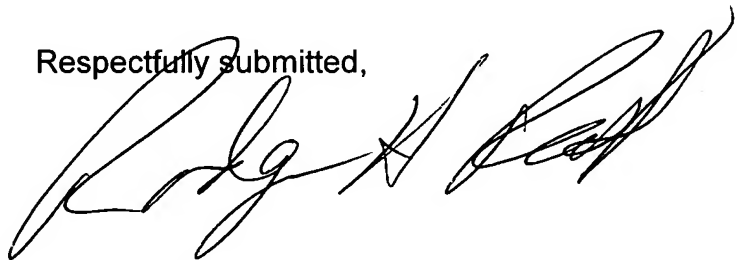
14. Conclusion.

The amendment modifies, and/or adds, a number of claims within the present application. Any changes to the specification are considered by the applicant to provide clarification while not adding new matter to the application. Each of these presently pending claims in this application are believed to be in immediate condition for allowance.

The Applicant respectfully requests a response/interview (email/phone) with the Examiner to clarify any issues that arise upon examination on the merits of the present application, if an allowance of all claims does not appear forthcoming.

Date: May 6, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rodger H. Rast', written over a horizontal line.

Rodger H. Rast
c/o Rastar Corporation
11230 Gold Express Drive
Suite 310 MS 337
Gold River, CA 95670

Rodger@rastar.us
(916) 631-9043
Reg. No. 45,853